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COMM & LEGAL DEPT

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension or
Revocation of the Licenses to Operate
Gambling Activities of:

Seattle Jaycees,

Licensee.

No. CR 2010-00627

SETTLEMENT ORDER

The Washington State Gambling Commission and the licensee, Seattle Jaycees, agree to this Settlement Order to resolve the administrative charges pending against the licensee. H. Bruce Marvin, Assistant Attorney General, and Arlene Dennistoun, Staff Attorney, represent the Gambling Commission. Dave Malone, Attorney, Miller Malone & Tellefson, represents the licensee.

I.

The Washington State Gambling Commission issued the Seattle Jaycees, 11030 East Marginal Way South, Tukwila, Organization Number 00-04070, the following licenses:

Number 01-01609, Authorizing Class "F" Bingo Activity;
Number 05-03362, Authorizing Class "F" Punchboard/Pull-Tab Activity; and
Number 03-01015, Authorizing Class "A" Commercial Amusement Game Activity.

These licenses, which expire on June 30, 2011, were issued subject to the licensee's compliance with state gambling laws and regulations.

II.

The Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to the licensee on October 18, 2010. On October 29, 2010, Commission staff received the licensee's request for a hearing.

III.

The following summary of facts and violations were alleged in the Notice of Administrative Charges:

SUMMARY:

The licensee, a nonprofit organization, failed to protect funds and assets from misuse, failed to adequately document expenses, failed to keep an adequate management control system, used gambling proceeds to benefit individual board members, and failed to submit updated documents and information.

VIOLATIONS:

- 1) **RCW 9.46.075(1)** provides that the Commission may suspend or revoke any license when a licensee has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW, or any rules adopted by the Commission.
- 2) **RCW 9.46.075(8)** provides that the Commission may suspend or revoke any license when a licensee fails to prove, by clear and convincing evidence, that it is qualified in accordance with the provisions of this chapter. **RCW 9.46.153(1)** provides that it shall be the affirmative responsibility of each licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.
- 3) **WAC 230-03-085(1) and (3)** provides that the Commission may suspend or revoke any license when the licensee commits any act that constitutes grounds for suspending or revoking licenses or permits under RCW 9.46.075, or has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.
- 4) **WAC 230-03-085(8)** provides that the Commission may suspend or revoke any license when the licensee poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by prior activities, or reputation, or habits.

The Gambling Commission administratively charged the license with the same or substantially similar violations in 2001, and 2005, and issued a warning letter in 2008. The licensee has repeated a pattern of not making significant progress, not providing services directly related to its stated purpose and misusing funds. The licensee's conduct demonstrates willful disregard for complying with administrative rules.

The licensee's habits and prior activities also demonstrate that it poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities.

The licensee has failed to prove clearly and convincingly, that it is qualified to hold a gambling license, based on its repeated violations of not making significant progress, not providing services directly related to its stated purpose and misusing funds.

Grounds, therefore, exist to suspend or revoke the Seattle Jaycees' licenses under RCW 9.46.075(1) and (8), and WAC 230-03-085(1), (3) and (8).

5) **WAC 230-07-010(1)** requires charitable or nonprofit organizations to use all net income from gambling activities remaining after paying necessary expenses of operating the gambling activities exclusively for the lawful purpose(s) of the organization stated on the organization's license application.

The licensee failed to use net income from gambling activities exclusively for the lawful purposes of the organization stated on its application. The licensee misused about \$47,863, kept little or no supporting documentation for about \$15,724 in expenses, and paid for meals, alcoholic drinks, baseball game, movie, boat cruise, and theater tickets for its board members, violating WAC 230-07010(1). Grounds, therefore, exist to suspend or revoke Seattle Jaycees' licenses under RCW 9.46.075(1) and (8), and WAC 230-03-085(1), (3) and (8).

6) **WAC 230-07-060(2) (c) and (d)** requires charitable or nonprofit licensees to develop and maintain an independent management control system that ensures they protect all assets of the organization from misuse or embezzlement and use gambling proceeds solely to advance the purposes of their organization.

The licensee failed to develop and maintain an independent management control system that ensures they protect all assets of the organization from misuse or embezzlement and use gambling proceeds solely to advance the purposes of the organization. The licensee misused about \$47,863, kept little or no supporting documentation for about \$15,724 in expenses, and paid for meals, alcoholic drinks, baseball game, movie, boat cruise, and theater tickets for its board members. Two of the licensee's board members were in a relationship, lived together and shared a bank account, but were allowed to approve over 100 expenditures. This conduct violated WAC 230-07-060(2)(c) and (d). Grounds, therefore, exist to suspend or revoke Seattle Jaycees' licenses under RCW 9.46.075(1) and (8), and WAC 230-03-085(1), (3) and (8).

7) **WAC 230-07-065(3), (5) and (6)** provide that charitable or nonprofit licensees assigned to Groups III, IV, and V must develop and implement a management control system that:

(3) Includes affirmative management and accounting controls to ensure that all funds and other assets directly or indirectly obtained with gambling proceeds are protected from misuse, are dedicated solely to the purposes of the organization, and do not inure to the private use of any person.

(5) Includes a system of internal accounting controls designed to reduce errors, minimize the risk of embezzlement, and safeguard assets. The licensee's officers or board of directors must implement procedures to monitor established controls for compliance. The internal accounting control system must include at least:

(a) Management approval for expenditures; and

- (b) Access to assets is restricted to those individuals management authorizes; and
- (c) Recording procedures for all transactions in accordance with generally accepted accounting principles (GAAP). Licensees must record transactions with enough detail to maintain accountability for assets; and
- (d) Periodic comparison of recorded assets to physical assets and reconciliation of all differences. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records.

(6) Is documented and available for our review.

The licensee, assigned to Group III based on its combined annual gross receipts, failed to develop a management control system to ensure that all funds and other assets directly or indirectly obtained with gambling proceeds are protected from misuse, are dedicated solely to the purpose of the organization, and do not inure to the private use of any person. The licensee failed to keep records for all transactions in accordance with generally accepted accounting principles, and with enough detail to maintain accountability for assets. The licensee misused about \$47,863, kept little or no supporting documentation for about \$15,724 in expenses, and paid for meals, alcoholic drinks, baseball game, movie, boat cruise, and theater tickets for its board members. Two of the licensee's board members were in a relationship, lived together and shared a bank account, but were allowed to approve over 100 expenditures. This conduct violated WAC 230-07-065(3), (5) and (6). Grounds, therefore, exist to suspend or revoke Seattle Jaycees' licenses under RCW 9.46.075(1) and (8), and WAC 230-03-085(1), (3) and (8).

8) WAC 230-07-075(1), (2), and (4) provide:

- (1) Charitable or nonprofit organizations have an independent operating environment when their officers or board members and supervisory level employees have completely separated their personal interests from the interests of the organization.
- (2) If individual officers or board members acknowledge potential conflicts of interest and abstain from voting on issues that directly or indirectly affect their personal interest, the organization is operating independently.
- (4) We will presume organizations lack an independent operating environment if the governing board fails to approve and document in the official meeting minutes any of the following by the officers, board members, or supervisory level employees:
 - (a) Receiving, directly or indirectly, financial or personal benefit from the organization or share in gambling proceeds of the organization; or
 - (b) Supervising, directly or indirectly, or having decision-making authority over transactions that may result in direct or indirect financial or personal benefit to:

- (i) Their direct relatives; or
- (ii) Persons with whom they maintain a common household; or
- (iii) Persons with whom they have a business relationship; or

(c) Allowing others, directly or, through lack of action, indirectly, to receive or share in the gambling proceeds of the organization.

The licensee failed to acknowledge potential conflicts of interest, and approved of board members receiving directly and indirectly, financial and person benefit from the licensee's gambling proceeds. The licensee also allowed board members to have decision-making authority over transactions that resulted in financial or personal benefit to persons who maintain a common household. The licensee misused about \$47,863, kept little or no supporting documentation for about \$15,724 in expenses, and paid for meals, alcoholic drinks, baseball game, movie, boat cruise, and theater tickets for its board members. Two of the licensee's board members were in a relationship, lived together and shared a bank account, but were allowed to approve over 100 expenditures. Board members approved a grant or loan of \$18,200 to another nonprofit organization which a former board member belonged to. This conduct violated WAC 230-07-075(1), (2), and (4). Grounds, therefore, exist to suspend or revoke Seattle Jaycees' licenses under RCW 9.46.075(1) and (8), and WAC 230-03-085(1), (3) and (8).

9) **WAC 230-07-130(1) and (2)** requires charitable or nonprofit licensees to maintain records which clearly show how the licensee used or disbursed the funds from each licensed activity. These records must provide an audit trail satisfactory for us to verify that the funds were used for the licensees' stated purpose(s). These records must include, at least, canceled checks for the disbursements. Charitable or nonprofit licensees must keep these records for three years from the end of year for which the record was created.

The licensee failed to keep records which clearly show how the licensee used or disbursed the funds from each licensed activity, and did not provide an audit trail satisfactory for us to verify that the funds were used for the licensees' stated purpose(s). This conduct violated WAC 230-07-130(1) and (2). Grounds, therefore, exist to suspend or revoke Seattle Jaycees' licenses under RCW 9.46.075(1) and (8), and WAC 230-03-085(1), (3) and (8).

10) **WAC 230-07-020(1) and (2)** require charitable or nonprofit licensees to make "significant progress" toward their stated purpose. They have made "significant progress" when they have complied with all requirements set forth in their bylaws and articles of incorporation, and have actively engaged in providing services to the public or their members during the fiscal year under review, and the services directly relate to the stated purposes of the organization.

Between January 2009 and June 2010, the licensee failed to make significant progress, as demonstrated by its disregard for complying with its Bylaws, Policies and Procedures. The licensee frequently failed to complete Chairman's Planning Guides for projects, failed to complete expense/reimbursement forms and to keep proper receipts and a detailed descriptions of items. The licensee also failed to keep meeting minutes and attendance records, reimbursed board members 100 percent of travel expenses, and failed to provide services directly related to

its stated purpose of providing leadership training to its members through community service. This conduct violated WAC 230-07-020(1) and (2).

Grounds, therefore, exist to suspend or revoke Seattle Jaycees' licenses under RCW 9.46.075(1) and (8), and WAC 230-03-085(1), (3) and (8).

11) **WAC 230-03-085(7)** provides that the Commission may suspend or revoke any license when the licensee fails to provide us with any information required under Commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us.

12) **WAC 230-06-080(1) and (2)(a)** requires licensees to notify us in writing if any information filed with the application changes in any way within thirty days of the change. Licensees must submit to us any new or updated documents and information, including the following: Articles of incorporation or bylaws, or any other documents which set out the organizational structure and purposes.

The licensee failed to submit its updated Bylaws, Policies and Procedures, violating WAC 230-06-080(1) and (2). Grounds, therefore, exist to suspend or revoke Seattle Jaycees' licenses under RCW 9.46.075(1) and (8), and WAC 230-03-085(1), (3), (7) and (8).

IV.

The licensee, Seattle Jaycees, acknowledges that it has read the Notice of Administrative Charges and understands the facts and violations contained in it. The licensee requested an adjudicative proceeding and has waived its right to such a proceeding based this Settlement Order.

While not admitting to the summary of facts and violations specified above in section III, the licensee agrees that if the facts in this case were established by the Gambling Commission, there would be sufficient evidence of the violations as set forth above. The licensee further agrees to the following sanctions:

1) The licensee agrees the following persons may not be on the Board of Directors for an indefinite period of time. The licensee must make a written request for, and receive approval from, the Director of the Gambling Commission prior to allowing the following persons to become members of the Board of Directors:

- a) Kendra Demuth
- b) Tara Winkler
- c) Katrina Bettis
- d) Stephen Vinzant
- e) Sandy Barrera
- f) Joe Gong

2) Gambling Commission staff acknowledges that Kendra Demuth, as authorized by the licensee's Bylaws, is the current Chairman of the Board as of February 2011, based on her prior position as president. However, Ms. Demuth may not exercise her option to vote, especially on financial matters. Furthermore, if Ms. Demuth holds any committee positions, she may not have any primary reporting responsibilities, nor exercise any voting options involving financial matters.

3) Kendra Demuth and Tara Winkler may not be in positions that would allow them to jointly make decisions about, approve, or sign for expenses for the licensee or its board members.

4) The licensee must amend its Bylaws, and implement such changes by July 1, 2011, to clarify that its stated purpose allows the licensee to contribute funds and resources to the community, and to further clarify which activities are permitted under 26 USC Section 501(c)(4).

5) The licensee must fulfill all the requirements contained in its Chapter Policies and Procedures, including, but not limited to, maintaining the following records, and making these records available for inspection by Commission Special Agents upon reasonable notification:

- a) Chairman's Planning Guides for all events and projects approved by its Area Vice President and Area Director.
- b) Chairman's Planning Guides for all completed events and projects approved by a majority vote of the licensee's Executive Board.
- c) Attendance records for all projects and events.
- d) Check request and expense reimbursement forms accompanied by receipts and detailed description of items purchased.
- e) Meeting minutes for all board and general membership meetings.

6) The licensee must implement independent management controls in addition to those contained in its Bylaws and Chapter Policies and Procedures, including but not limited to, creating an Audit Committee that will oversee all expenses and Chairman's Planning Guides submitted by board members. This will help to ensure that all current and future board members avoid conflicts of interest or violations related to the misuse of funds.

7) The licensee must distribute a copy of this Settlement Order to every present and future board member and gambling manager for the next five (5) years.

8) The licensee shall reimburse the Commission for all reasonable costs incurred in conducting a follow up inspection of the licensee's program services within thirty (30) days after receiving notice of the costs of such inspection. The inspection shall be made within six (6) months after the entry of this Order; this will allow the licensee additional time to ensure that it has implemented new internal controls, policies and procedures.

9) The licensee's gambling licenses are suspended for **forty-five (45) days**, provided that:

- a) **Twenty-five (25) days** of the suspension shall not be currently served, but shall be deferred for a period of **two years** from the date of entry of this Settlement Order, subject to the following: The licensee agrees not to violate the terms of this Settlement Order, or any of Washington's gambling statutes or regulations during the **two (2) year** term. If the licensee violates this Settlement Order or gambling statutes or regulations, and if the violation is the type that warrants the filing of administrative or criminal charges, then the Director may impose the **twenty-five-day** deferred suspension of the current gambling licenses and any subsequently acquired gambling licenses.
- b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this agreement, has discretion to determine whether the licensee has violated any term of this agreement. In the event the Director determines that a violation of this agreement has occurred, he may suspend the license(s) issued to the licensee for up to **twenty-five days**, by mailing or delivering a Notice of Order of Administrative Charges to the licensee. In addition to the consequences of the new violation, the deferred sentence shall also be served. The licensee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.
- c) Pursuant to RCW 9.46.077, the licensee has chosen to vacate the **remaining twenty (20) days** of the suspension by paying a fine in the amount of **twenty seven thousand, five hundred and sixty-six dollars (\$27,566)**, which represents the Commission's investigative and administrative costs. The licensee must pay the fine in three (3) or less installments. The first and second payments of **nine thousand, one hundred and eighty-nine dollars (\$9,189)** are due by **March 8 and April 8, 2011, respectively**. The third payment of **nine thousand, one hundred and eighty-eight dollars (\$9,188)** is due by **May 8, 2011**.

The licensee shall **mail** payment(s) to Commission Headquarters at the following address:

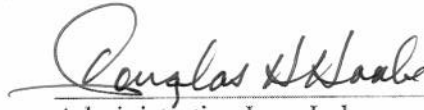
Washington State Gambling Commission
Attention: Communications and Legal Division – Fines
P.O. Box 42400
Olympia, WA 98504-2400

or **deliver** (in person or via private courier) payment(s) to the following address:

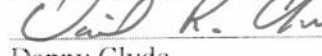
Washington State Gambling Commission
Attention: Communications and Legal Division – Fines
4565 7th Avenue SE; Fourth Floor
Lacey, WA 98503

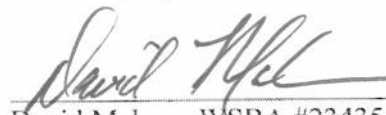
10) If the licensee makes its payment(s) as agreed in Subsection IV, paragraphs 8 and 9, this matter will be deemed closed. However, if the licensee fails to timely make its payment(s), the Director may impose an additional **two (2)** day suspension for the late payment(s). Serving the suspension would not, however, relieve the licensee of its obligation to make the payment(s).

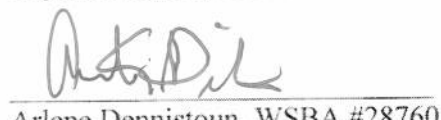
DATED this 10 day of March, 2011.


Administrative Law Judge

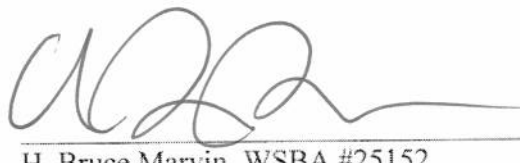
APPROVED FOR ENTRY:


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APPROVED AS TO FORM:


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